

CHAPTER 6 IOWA AGRICULTURAL LOAN ASSISTANCE PROGRAM

[Prior to 4/22/87, Iowa Family Farm Development Authority[523] Ch 6]

25—6.1(175) Iowa agricultural loan assistance program description. This program will operate at two levels. Each is intended to reduce the interest cost of operating loans to farmers for reasonable and necessary expenses of farming to be incurred during the 1986-87 production year. The authority will enter into interest buydown agreements with lending institutions and farmers under which the lending institution will agree to write down the farmer's interest rate on the operating loan for approximately one year and the authority will agree to give the lending institution an interest buydown grant in partial reimbursement of the written down interest rate on the operating loan. The program is intended to supplement the Guaranteed Operating Loan Program (specifically the Interest Rate Buydown Program) of the Farmers Home Administration authorized at 7 C.F.R. Part 1980, subpart B, as amended to March 2, 1979. Application for an FmHA guarantee on an operating loan is a prerequisite to receiving an interest rate buydown with respect to an operating loan pursuant to level one of this program. Denial of an FmHA guarantee or a determination by the executive director that assistance will not be available on a timely basis from FmHA is a prerequisite to receiving an interest rate buydown with respect to an operating loan pursuant to level two of this program.

25—6.2(175) Joint operational definitions.

"Authority" means the Iowa agricultural development authority, established pursuant to Iowa Code chapter 175.

"Farm" means a farming enterprise which is recognized in the community as a farm rather than a rural residence.

"Farmer" means an individual, partnership, or family farm corporation as defined in Iowa Code section 9H.1(8) that engages in farming.

"Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority by rules promulgated pursuant to Iowa Code chapter 17A.

"Farm operating loan rate" for purposes of level two means the most common per annum rate of interest charged by a lending institution on operating loans to its typical farmer customers. If a lending institution usually charges a variable rate of interest on farm operating loans, the farm operating loan rate shall not exceed the average variable interest rate charged on operating loans to its typical farmer customers over the 90 calendar days immediately prior to an application pursuant to level two.

"Federal Operating Loan Program" means the Guaranteed Operating Loan Program together with the Interest Rate Buydown Program administered by the FmHA as described in 7 C.F.R. Part 1980, subpart B. (section 1980.175 and Exhibit D)

"FmHA" means the Farmers Home Administration of the United States Department of Agriculture.

"FmHA buydown agreement" means Form FmHA 1980-58 (or a replacement thereof), an agreement between a lending institution, a farmer, and the FmHA under which the FmHA agrees to give the lending institution an interest buydown grant in partial reimbursement of a writedown by the lending institution of the interest rate on the farmer's operating loan pursuant to the federal operating loan program.

"Iowa buydown agreement" means an agreement between a lending institution, a farmer, and the authority under which the authority agrees to give the lending institution an interest buydown grant in partial reimbursement of a writedown by the lending institution of the interest rate on the farmer's operating loan pursuant to this program.

"Lending institution" means a bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any state or federal governmental agency or

instrumentality, including without limitation the federal land bank or any of its local associations, or any other financial institutions or entity authorized to make farm operating loans in this state.

“Operating loan, for purposes of level one,” means operating loans or lines of credit to which the federal operating loan program applies, other than an operating loan which is currently guaranteed or funded by the FmHA as of the date of application to this program.

“Operating loan, for purposes of level two,” means a loan the proceeds of which are utilized by a farmer for reasonable and necessary expenses and cash flow requirements of farming to be incurred during the 1986-87 production year including hired labor, machinery repair, interest, cash rent, feed, seed, fertilizer, farm chemicals, livestock expenses, machinery hire, fuel and oils, personal property taxes, real estate taxes, water charges, insurance, automobile and truck expense (farm), utilities, feeder livestock, family living expenses, freight and trucking, grain storage, conservation expenses, and supplies.

“Positive cash flow” means that the farmer’s projected cash income (including all farm and non-farm income) exceeds or equals the farmer’s total estimated cash expenses (including all farm and non-farm debt service and other expenses) on an annualized basis.

25—6.3(175) General provisions.

6.3(1) Eligibility.

a. The Iowa agricultural loan assistance program is intended to supplement the federal operating loan program. Any operating loan which is guaranteed by the FmHA pursuant to the federal operating loan program, or otherwise, without state assistance shall be ineligible for an interest buydown under this program.

b. A farmer must be a resident of and domiciled in the state of Iowa. In the case of a farmer who is a natural person, the farmer’s principal residence and domicile must be within the state of Iowa. In the case of a farmer that is a partnership, the principal residence and domicile of the natural person or persons holding at least 50 percent interest in the partnership must be within the state of Iowa. In the case of a farmer that is a family farm corporation, the principal residence and domicile of the holders of at least 50 percent of the shares in the family farm corporation must be within the state of Iowa.

c. The farm operation in which the proceeds of the operating loan will be used must be located within the state of Iowa. If a majority of the land acreage used in a farm operation’s agricultural production (including any production building site or farm residence site) is located within the state of Iowa, the farm operation will be deemed located within the state of Iowa.

d. A farmer must be of the age of majority or otherwise legally capable and authorized to enter into an Iowa buydown agreement.

6.3(2) Administration. The program will be administered by the executive director of the authority.

6.3(3) Priority. Applications for the Iowa Agricultural Loan Assistance Program will be processed on a “first-come, first-served” basis.

6.3(4) Program expiration. The authority shall not enter into any new Iowa buydown agreements after June 30, 1986.

LEVEL ONE

25—6.4(175) Combined federal and state grants. Level one of the Iowa agricultural loan assistance program is intended to assist farmers in qualifying for the receipt of a guarantee for an operating loan through the federal operating loan program. Farmers who would fail to qualify for an FmHA guarantee even with the maximum interest buydown assistance pursuant to the federal operating loan program but who would so qualify with additional interest buydown assistance from the state may apply for level one assistance.

6.4(1) Application procedures.

a. The lending institution and farmer shall first apply to FmHA for a guarantee of the proposed operating loan pursuant to the federal operating loan program.

b. Upon receipt of a conditional commitment for guarantee or contract of guarantee from the FmHA which provides for the maximum percentage interest rate buydown allowed under the federal operating loan program, but which is conditioned in part upon receipt of assistance under this program, the lending institution and farmer shall submit a complete application package to the authority.

c. A complete application package shall include:

- (1) A completed application instrument in a form approved by the authority, executed by both the lending institution and farmer;
- (2) A photocopy of the FmHA conditional commitment for guarantee or contract of guarantee (Form FmHA 449-14 or 1980-15, or a replacement thereof);
- (3) An executed Iowa buydown agreement; and
- (4) Any additional documents deemed necessary or pertinent by the executive director.

At the discretion of the executive director, receipt of any portion of the application package may be waived.

6.4(2) Review. The authority staff shall review the complete application package upon receipt. The review shall include, but not be limited to, a determination of the interest rate percentage write-down and buydown pursuant to this program which is necessary to qualify the operating loan for a guarantee by the FmHA pursuant to the federal operating loan program.

6.4(3) Disposition. Upon completion of the application review, the executive director shall approve or deny the application. If the application is denied, a written notification outlining the basis of the denial shall be given to the lending institution and farmer. If the application is approved, the executive director shall execute the Iowa buydown agreement. The Iowa buydown agreement shall be given to the lending institution to be attached to the operating loan promissory note(s) or line of credit agreement(s). The lending institution shall immediately forward to the local FmHA county supervisor a copy of the disposition of the application.

6.4(4) Confirmation. The lending institution and farmer shall immediately upon receipt submit to the authority photocopies of the FmHA loan note guarantee or contract of guarantee (Form FmHA 449-34 or 1980-27, or a replacement thereof), the final operating loan promissory note(s) or final operating loan line of credit agreement(s), the FmHA buydown agreement, and any additional documents requested by the executive director to evidence a final binding commitment by the FmHA to guarantee and make interest rate buydown payments with respect to the farmer's operating loan. The lending institution shall give written notice to the authority of the date upon which moneys will first be advanced on the operating loan and the operating loan's maturity date.

6.4(5) Terms.

a. The maximum interest rate buydown pursuant to this program shall be 3 percent per annum of up to \$100,000 of the principal balance of the farmer's operating loan outstanding from time to time, for the term of the loan, including any extensions or renewals thereof, or one year whichever is less.

b. An interest rate buydown, pursuant to this program, with respect to any extension or renewal of an operating loan shall be subject to the prior written consent of the executive director and to the availability of uncommitted program funds at that time.

c. The total interest rate writedown required pursuant to level one shall equal a minimum 4 percent interest rate writedown required pursuant to the federal operating loan program plus the state's interest rate buydown percentage provided pursuant to level one.

LEVEL TWO

25—6.5(175) State interest buydown grants. Level two of the Iowa Agricultural Loan Assistance Program is intended to provide a mechanism through which the state of Iowa will assist farmers who could not qualify for the federal operating loan program, or for whom assistance pursuant to the federal operating loan program would not be available on a timely basis, to obtain additional time to restructure their operation to achieve a positive cash flow.

6.5(1) Application procedures.

a. The lending institution and farmer shall have first applied to FmHA for a guarantee of the proposed operating loan pursuant to the federal operating loan program and been denied.

b. Upon receipt of a denial from the FmHA the lending institution and farmer shall submit a complete application package to the authority.

c. Notwithstanding paragraphs “a” and “b” of this subrule and in lieu of the requirements thereof, the lending institution and farmer may submit a jointly executed, written request for participation in level two of this program which outlines the basis upon which they believe that assistance will not be available to the farmer on a timely basis pursuant to the federal operating loan program. The joint request shall be submitted to the authority together with a complete application package.

d. The complete application package shall include:

(1) A completed application instrument in a form approved by the authority, executed by both the lending institution and farmer, which includes a certification that the lending institution and the farmer have notified all of the farmer’s secured creditors of the application for participation in this program and a certification as to the lending institution’s farm operating loan rate as defined in subrule 6.2(13).

(2) All materials submitted, or which would have been submitted, to the FmHA by the lending institution and farmer in applying for participation in the federal operating loan program. The farmer and lending institution shall on a current financial statement and in items 25, 26, and 28 of the application for guarantee (Form FmHA 449-12) mark those changes in the farmer’s operation as described in the financial adjustment plan (see subrule 6.5(2) below) which the farmer will make in order to reach a positive cash flow.

(3) Form FmHA 449-13 (or a replacement thereof) which indicates the reasons for which the lending institution and farmer were denied participation in the federal operating loan program. This form need not be submitted if application is being made pursuant to 6.5(1) “c.”

(4) A financial adjustment plan. See subrule 6.5(2).

(5) An executed Iowa buydown agreement in a form provided by the authority, which shall require the farmer to participate during the term of the Iowa buydown agreement in the financial analysis program offered through the Iowa state university extension service or, in the discretion of the executive director, an equivalent analysis. If the farmer has participated in the ISU financial analysis program, or an equivalent analysis, within the six-calendar months immediately preceding the date of application, a copy of any resulting plan for financial adjustment or restructuring shall be submitted as part of the complete application package and the farmer will not be required to again participate in the ISU financial analysis program or an equivalent.

(6) A quarterly cash flow statement which supports the operating loan amount as shown on the application.

(7) Any additional documents deemed necessary or pertinent by the executive director. At the discretion of the executive director, receipt of any portion of the application package may be waived.

6.5(2) The financial adjustment plan. The financial adjustment plan is intended to outline the measures which the farmer and lending institution anticipate could be taken by the farmer, the lending institution, and other creditors to enable the farmer to achieve a positive cash flow.

In preparing the financial adjustment plan the lending institution and farmer shall consider at a minimum:

a. Methods to increase income, including:

- (1) Means to reduce production costs,
- (2) Possible changes in types of farm enterprises or operations, and
- (3) Possible sources of off-farm income.

b. Methods of restructuring liabilities, including:

- (1) Possible loan rescheduling,
- (2) Possible interest rate reductions, and
- (3) Possible principal write-offs or pay-downs.

c. Methods of restructuring assets, including:

- (1) Possible sale of assets, or
- (2) Possible substitution of leased assets for owned assets.

6.5(3) Review. The executive director shall review the complete application package upon receipt. The review shall include, but not be limited to, determinations of the interest rate percentage

writedown and buydown pursuant to level two of this program, and in cases of applications pursuant to 6.5(1) "c," the availability and timeliness of possible assistance under the federal operating loan program.

6.5(4) Disposition. Upon completion of the application review the executive director shall approve or deny the application. If the executive director finds that the measures identified in the financial adjustment plan have a reasonable likelihood of resulting in a positive cash flow and that assistance pursuant to the federal operating loan program has been denied or is not available on a timely basis, the executive director shall execute the Iowa buydown agreement with the lending institution and the farmer. The Iowa buydown agreement shall be given to the lending institution to be attached to the operating loan promissory note or line of credit agreement. If the application is denied, a written notification outlining the basis of the denial shall be given to the lending institution and farmer.

6.5(5) Confirmation. The lending institution and farmer shall submit to the authority a photocopy of the final executed operating loan promissory note or operating loan line of credit agreement. The lending institution shall give written notice to the authority of the date upon which moneys will first be advanced on the operating loan and the operating loan's maturity date.

6.5(6) Terms.

a. The authority shall not pay the lending institution an interest buydown in a percentage per annum greater than one-half of the lending institution's writedown of the interest rate per annum on the operating loan, except that such a payment shall in no case exceed the cost of writing down such interest rate by more than three percentage points per annum.

b. The interest buydown shall be calculated on an amount up to \$100,000 of the principal balance of the farmer's operating loan outstanding from time to time, for the term of the loan, including any extensions or renewals thereof, or one year whichever is less.

c. An interest rate buydown, pursuant to this program, with respect to any extension or renewal of an operating loan shall be subject to the prior written consent of the executive director and to the availability of uncommitted program funds at that time.

d. The interest rate on the farmer's operating loan prior to writedown shall not exceed the lending institution's farm operating loan rate as certified in the application by more than one percentage point per annum.

25—6.6(175) Interest rate buydown payment request. Not later than two weeks following the maturity date of the operating loan, including any extensions or renewals thereof, but in no event later than June 16, 1987, the lending institution shall submit an interest rate buydown payment request to the authority. The request shall be made on a form approved by the authority and shall include, but not be limited to, a listing by date and amount of all advances and payments made on the operating loan.

25—6.7(175) Monitoring. The executive director may from time to time require that the lending institution or farmer submit such information as the executive director deems necessary to determine whether the lending institution or farmer has complied with the terms of the Iowa buydown agreement and the rules of the authority. The executive director or designee may inspect any books or records of the lending institution or farmer to ensure compliance with the Iowa buydown agreement and the rules of the authority.

25—6.8(175) Sanctions. If the executive director determines that either the lending institution or the farmer has intentionally failed to comply with the rules of the authority or any terms of the Iowa buydown agreement, the executive director may terminate the Iowa buydown agreement and shall forward written notice of the termination by certified mail to both parties. Fraud or intentional misrepresentation at the time of execution of any document submitted to the authority in which the lending institution or farmer participates or which either condone shall be grounds for termination of the Iowa buydown agreement. In the event the FmHA should fail to enter into an FmHA buydown agreement or into an FmHA loan note guarantee or contract of guarantee with respect to the farmer's operating loan, or

should the FmHA buydown agreement or guarantee document be terminated or canceled by the FmHA, the executive director may declare the Iowa buydown agreement executed pursuant to level one void. If the Iowa buydown agreement is terminated or declared void, the obligation of the lending institution to write down the interest rate on the farmer's operating loan shall be terminated. However, notwithstanding any other language to the contrary, if the state's obligation is terminated pursuant to this rule as a result of fraud or misrepresentation on the part of the lending institution, the obligation of the lending institution to write down the interest rate on the farmer's operating loan shall survive the termination of the Iowa buydown agreement.

A lending institution or farmer shall not be found to have committed, participated in or condoned fraud, misrepresentation, or noncompliance with any rule or contract term unless it is determined that the lending institution or farmer had actual prior knowledge of the material facts and of the acts or omissions constituting the fraud, misrepresentation, or noncompliance.

25—6.9(175) Appeals. If either the lending institution or farmer is dissatisfied with the disposition of their application for participation in either level one or level two of the Iowa Agricultural Loan Assistance Program or any action of the executive director terminating the Iowa buydown agreement, they may appeal the action to the Iowa agricultural development authority board. Notice of appeal must be mailed to the authority within seven days of notification to the appellant of the action being appealed. The notice of appeal shall include a description of the action being appealed, the date of the action, the IADA request number, the names of the farmer and lending institution, and the grounds upon which the appeal is based. Upon receipt of the notice of appeal, the authority shall schedule a meeting of the board to consider the appeal. The board's meeting may be held telephonically. The meeting shall be held within seven days of receipt of the notice of appeal, subject to such delays as may be necessary in order to assemble a quorum of the board to hear the appeal.

The board in its discretion may receive any oral or written testimony or evidence relevant to the appeal. In reviewing the appeal the board shall consider the appellant's file and any oral or written evidence which in its discretion it has received in connection with the appeal. The board may affirm the action from which appeal is sought or grant such other relief as the board in its discretion deems appropriate.

These rules are intended to implement Iowa Code chapter 175.

[Filed emergency 3/21/86—published 4/9/86, effective 3/26/86]

[Filed 4/3/87, Notice 1/28/87*—published 4/22/87, effective 5/27/87]

*Transfer of Ch 6 did not appear in Notice of Intended Action.